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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/524,040	03/13/2000	Derek D. Mahoney	2506.1013-001	6480

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EXAMINER

NGUYEN, TUAN DUC

ART UNIT PAPER NUMBER

2643

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

9/3

Office Action Summary	Application No. 09/524,040	Applicant(s) MAHONEY ET AL.	
	Examiner Tuan D. Nguyen	Art Unit 2643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 19-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 19 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. patent number 6,438,244 (Juneau et al).

Regarding claims 1, 19 and 22, Juneau et al discloses a completely in the canal (CIC) hearing aid body (figure 11) adapted to interchangeably fit inside the ear canal of either a right side or left side of an ear of a typical user such that a distal end (37) of the body is disposed proximally adjacent to a tympanic membrane of said user, the hearing aid body comprising a semi-rigid shell (column 9 lines 41-67 and column 10 lines 1-7) that is shaped to conform to at least a first bend in an ear canal of a typical user.

Regarding claim 23, Juneau et al also shows the hearing aid body in which the tip contains a receiver (35) and a sound tube (37) extending between receiver and a distal end of the tip (37).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-4, 20-21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent number 6,438,244 (Juneau et al) in view of U.S. patent number 5,825,896 (Leedom).

Regarding claims 2, 20 and 24, Juneau et al does not disclose the body formed of two-half shell that is joined together with hollow interiors for housing hearing aid.

However, Leedom discloses a hearing with two-half shells.

Therefore, it would have been obvious to a one ordinary skill in the art at the time of the invention was made to use the two-half shells in Juneau et al for manufacturing effectively and efficiently.

Regarding claims 3, Leedom discloses the body in which a soft tip (42) is secured at the distal end of the body.

Regarding claim 4, Leedom also discloses the tip includes a sound port (37) for coupling sound from a receiver (35) housed in the body to the membrane of a hearing aid user.

Regrading claim 21, Juneau et al does not disclose the hearing aid body in which the components includes a permanently wired battery and the hearing aid body is adapted to be disposable.

However, the permanently wired battery and the disposable hearing aid body is well known. For instance, Leedom discloses a disposable hearing aid (column 1 lines 25-51).

Therefore, it would have been obvious to a one ordinary skill in the art at the time of the invention was made to use this well known disposable hearing aid for reducing cost of a hearing aid.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan D. Nguyen whose telephone number is (703) 305-7168. The examiner can normally be reached on M-F 6:30-3:00.

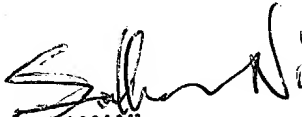
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curt Kuntz can be reached on (703) 305-4708.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2643

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TDN
11/17/04


SUHANI
PRIMARY EXAMINER